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OFFICE OF PETITIONS

In re Application of :
Jinxia Sun :
Application No. 09/769,388 : ON PETITION
Filed: January 26, 2001 :
Attorney Docket No. 0070OS :

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2005, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 30, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 30, 2004.

In response, petitioner submitted with the instant petition an amendment, and an authorization to charge the listed deposit account \$1,500 for the petition to revive fee and \$1,020 for a three (3) months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1,020 extension of time submitted with the petition on January 3, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition is **GRANTED**.

The application file is being referred to Technology Center Art Unit 1616, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
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REQUEST FOR PATENT FEE REFUND

1 Date of Request: <u>2-3-05</u>		2 Serial/Patent # <u>09/7169,388</u>	
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<input checked="" type="checkbox"/> No Fee Due (Explanation): <i>Ext. of Time filed outside Statutory Pd.</i>			
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